

Docket 61992  
Serial No. 10/823,074

PATENT APPLICATION

**AMENDMENTS TO THE DRAWINGS**

Replace Figs. 1a to 8c with the enclosed replacement sheets.

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REMARKS**BEST AVAILABLE COPY**

This is in full and timely response to the Office Action on the merits dated December 19, 2005. Reconsideration and reexamination are respectfully requested in view of  
5 the foregoing amendments and the following remarks.

By the foregoing amendment, claims 2-4, 11, 13, and 15-19 have been canceled, claims 1, 12, and 14 have been amended, and claim 20 has been newly added. Therefore, claims 1, 5-10, 12, and 20 remain in this application with claims 1, 12 and 20 being independent.

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IN THE DRAWINGS

New drawings are required in that the examiner stated that the drawings are of poor line quality and difficult to read. Without admitting the propriety of this rejection, all of the drawings have been replaced with formal drawings such that all reference lines are clear  
15 and easy to distinguish.

IN THE CLAIMS:35 U.S.C. § 102 and § 103 Rejections:

20 Claims 1, 5, and 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,642,796 to Bore. Further, claims 2-4, 6, 12, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bore in view of U.S. Design Patent No. D474,379 to Nelson et al. Still further, claims 7 and 16-18 stand rejected over Bore and Nelson and

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further in view of U.S. Patent No. 2,066,185 to Miller et al. Claims 8 and 9 stand rejected over Bore in view of U.S. Pat. No. 5,666,9940 to Kreitner. Claims 13 and 14 stand rejected over Bore in view of Nelson and in view of Kreitner. Claim 11 stands rejected over Bore in view of U.S. Patent No. 2,935,982 to Otis. And, claim 19 stands rejected over Bore in view of Nelson and further in view of Otis.

The examiner states that Bore shows that the rod includes an offset portion (unnumbered bent portion). The applicant respectfully disagrees with this reading of Bore. In the present application, offset portion 114 is specifically described as a structure that keeps the rod longitudinal axis inline with the basket longitudinal axis so that the basket is not raised and lowered during rotation of the handle (Application, p. 6, lines 10-17 and Figs. 2b and 2c). The unnumbered bent piece disclosed in Bore is not intended nor does it function for this purpose. Namely, the rod in Bore is not offset by the unnumbered bent piece – the rod itself is still attached centrally to a side wall of the basket, at about 29. This would make the rod 13, at best, parallel to a basket longitudinal axis, if in fact Bore can even be said to disclose a basket at 19 and 24. There certainly is no disclosure in Bore or any other reference that any of these structures are attempting to address the problem that is described in the present application in detail.

Without admitting the propriety of this rejection, claim 1 has been amended to include the subject matter of claims 2-4 to make claim 1 even more clear regarding the offset and its advantage when using a tubular basket configuration. With this offset structure, the rigid rod is able to be connected to the continuous side wall of the basket while still being inline with a longitudinal axis of the basket itself. As the references do not fairly show, teach,

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or even imply an offset structure for keeping a tubular basket configuration from moving up or down during rotation, claim 1 should now be in condition for allowance and such is respectfully requested.

5           With specific reference to claims 2-4, 6, 12, and 15, the examiner states that the design patent to Nelson teaches a closed distal end and open proximal end. Again, the applicant respectfully disagrees with the examiner's reading of Nelson. The examiner refers specifically to Figs. 1 and 6 and the DESCRIPTION section. Fig. 6 certainly shows a closed distal end. However, it is not at all clear whether Fig. 1 in fact shows an open proximal end.

10   Further, turning to the DESCRIPTION in Nelson, it is disclosed that the jaws of the cage are opened via a hinged arrangement for inserting or removing a hot dog. Thus, there is no clear disclosure that the proximal end is open for insertion or removal of a hot dog (as in the present application). The rod in Nelson further appears to be situated to prevent such usage (see the discussion above concerning the need for an offset rod construction). Therefore, the

15   applicant urges that the apparent position of the rod in Nelson, Nelson's clear teaching of a hinged basket operation, and Nelson complete lack of disclosure or clear drawing of an open proximal end should indicate the Nelson is improperly combined to support the present rejections. Accordingly, the rejection of the claims based on the combination of Bore and Nelson should be withdrawn and such is respectfully requested.

20           Without admitting the propriety of any of these rejections, claim 12 has been amended to recite a food apparatus having an elongate rod with an offset portion (as recited in claim 1) along with a sleeve coupled to the rod for slidable movement, a post for ground penetration, a clamp assembly, and a basket assembly having first and second basket members

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coupled in a hinged relationship as well as trigger and linkage components. The applicant strongly urges that this combination of components would not have been obvious in view of the cited references, whether considered singly or in combination. If the examiner believes that such a combination would have been obvious, the applicant respectfully requests that the  
5 examiner identify particular portions of the references that suggest such a combination of elements.


Again without admitting the propriety of any of these rejections, claim 20 has been newly added to recite a food apparatus having an elongate rod with an offset portion (as  
10 recited in claim 1) along with a sleeve coupled to the rod for slidable movement, a post for ground penetration, a clamp assembly, and a basket assembly having first and second basket members coupled in a slidable relationship as well as trigger and linkage components.

This application should now be in condition for allowance and such is respectfully  
15 requested. If the examiner has any suggestions that would place this application in even better condition for allowance, she is invited to contact the applicant's representative at the telephone number listed below.

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Respectfully Submitted,

  
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